

MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963

REGULAR TOWN COUNCIL MEETING
Thursday, November 19, 2009
3:30 p.m.

PRESENT: **E. William Kenyon, Mayor**
 William H. Ahrens, Vice Mayor
 Frances F. Atchison, Councilmember
 Michael B. Ochsner, Councilman
 Gerard A. Weick, Councilman

STAFF PRESENT: **Laura Aldrich, Town Clerk**
 William Schauman, Director of Public Safety
 Richard Jefferson, Building Official
 Judith Lewis, Town Treasurer (departed at 4:20)

OTHERS PRESENT: **Bill Beardslee, PZV Chairman; 4 Residents; Peter Young, JIPOA**

ABSENT: **Robert J. Bradshaw, Town Manager (Excused)**

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation – Councilman Ochsner
- c. Roll Call

Mayor Kenyon called the meeting to order at 3:30, and these items were performed with the Roll Call as reflected above.

2. **Consent Agenda**

- a. Acceptance of July 10, 2008 Finance Committee Minutes
- b. Approval of October 22, 2009 Regular Town Council Meeting Minutes
- c. Approval of Invoice from Town Attorney Chester Clem dated October 31, 2009
A **motion to approve the consent agenda as presented** was made by Councilmember Weick, seconded by Vice Mayor Ahrens, which **passed unanimously** with no discussion.

3. **Mayor's Items**

- a. Utility Matters
Mayor Kenyon had nothing to report on this, and moved on to the next item.
- b. CCNA (Consultant Competitive Negotiations Act) Committee Update (Tom Cadden)
The focus at present is the Competitive Consultant Negotiations Act Committee's activities, on which the Mayor asked Mr. Jefferson to report. He said that the Committee is now more unified in finding an itinerary for the consultants, having agreed on the RFP. It will be mailed out this week, and the deadline is December 31st. The Mayor clarified that this process is for the vendors to ask to be considered, not to reply with a quote for service yet.
- c. Beach Renourishment
The Mayor said he, the Town Attorney and Councilman Mike Ochsner attended a meeting, and asked Councilman Ochsner to provide the report. He said that what he heard was the

This is a Public Meeting. The Town of Indian River Shores does not transcribe verbatim minutes. Should any interested party seek to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Anyone who needs any type of special accommodation for this meeting may contact the Town Clerk at 231-1771.

Indian River County Commission stating that they were using upland sand no matter what, and the U.S. Fish and Wildlife Commission stating you can't use upland sand. However, a possible workaround may be to subdivide Sector 3 into two sections, with the southern from Golden Sands Beach Park to Marbrisa as Phase I. They may allow upland sand on this section on a test basis, and after one year on monitoring, if the turtle "successful hatch rate" is consistent with what it would be with offshore sand on other beaches, they would presumably allow the upland sand to be used on Phase II, which includes the Archie Carr National Wildlife Refuge in the north section.

Mayor Kenyon said someone raised the question about removing the sand if it didn't work, and Councilman Ochsner said you can't tell the difference with the naked eye, continuing that the emphasis was that the turtles are the most important consideration in the project.

Councilman Ochsner gave part of his report on the Beach and Shore Committee that is related to this, which is that the Beach Restoration Plan two-phase plan was resubmitted to the permitting agencies, and yesterday a submittal was due to the QA/QC plan to FDEP to ensure the sand would be the same. The plan also included a provision to monitor the hatch success rate on turtles in 2010. Rick Herren and Dr. Gorham have been tasked to come up with a plan on defining a successful hatch rate, which will determine if they are to proceed with Phase II. The current issue of Vero Beach 32963 had an article that explained the bigger picture of the upland sand story, which was briefly discussed.

Council Members Weick and Atchison asked about the mechanics of sand placement, which involves the trucks driving on the beach and dumping the sand. Mr. Clem said he was impressed to hear the importance of the Archie Carr National Wildlife Refuge being second in the world for turtle nesting. With loggerhead turtles almost ready to be put on the endangered species list, nothing will take precedence over this, with the Army Corps of Engineers and the Florida Department of Environmental Protection deferential to the U.S. Fish and Wildlife's (USFWS) biological opinion. The Vice Mayor clarified that no permit has been issued, and the Federal government will have the final say (USFWS). Councilman Ochsner added that the time limit for offshore placement has expired, and if this permit is not issued, there will be no sand placed on our beach.

Mayor Kenyon relayed that he raised the question on the frequency of the trucks, and Chris Mora said it would be a truck every minute, and this was discussed with Mr. Clark Daugherty. Chief Schauman said once the routes are determined, if they deviate the law enforcement agency (or agencies) will be alerted and may have a contractual provision to enforce. Councilman Ochsner continued that in his conversation with Bob Schaffer from Ranger, as part of the contract the subcontractors will be paid by following specified route. The drop dead date to get sand placed this season, Councilman Ochsner added, must have permits by February 1 and begin placement by February 15th, in order to be finished by April 30.

There was more general discussion with no resulting action.

The Mayor also commented on the Christmas party for the Town employees, which will be held at John's Island. The John's Island policy has always been to only charge for out-of-pocket costs, which reduces the overall cost of the party to a reasonable amount. With the Town's budget being tight this year, the decision was made to pass on using their facilities this year in favor of using the Community Center. Not everyone was happy with this decision. Last week at a dinner, the Club Manager stopped by the Mayor's table and spoke regarding the cancellation of this event, and a couple at the table offered to pay the entire cost for the employees. At least two families have offered to privately fund the Town employee's party at the Main John's Island Golf Club on December 19th. This has been confirmed to be acceptable by the Town Attorney.

4. **Planning, Zoning and Variance Board**

Mr. Beardslee said that there was no meeting last month.

(At this time, Mr. Jefferson passed out the latest copy of the RFQ that is going out for the CCNA.)

5. **Town Attorney**

Nothing to report.

6. **Town Manager**

The Mayor said he asked the Town Treasurer, Chief and Building Official to attend the meeting in case anyone had any questions for the Town Manager. He thanked the staff for making time to attend.

a. Renewal of Agreement for Town's Public Safety Department Medical Director

Town Clerk Laura Aldrich explained that this is the same annual agreement that has been in place for many years. At the Mayor's request, she read the agreement, which extends his service for another year. Mayor Kenyon encouraged Councilmen Ochsner and Weick to meet Dr. Mattice if they had not already done so. Chief Schauman said that Dr. Mattice meets with staff every month, and has not asked for a contract increase. A **motion to renew the Agreement with Dr. Michael Mattice as the Town's Medical Director for the Public Safety Department for 2010** was made by Councilmember Atchison and seconded by Councilman Weick, **which passed unanimously.**

b. Budget Adjustments from FY 08-09

Councilman Ochsner was asked to address this, and he responded that the Finance Committee met on Monday and approved the recommended adjustments. Councilman Ochsner then asked Treasurer Judy Lewis to address them specifically. She said that there were minor changes compared to adjustments made in the past. A net adjustment in the General Fund of \$109,500 was recommended to supplement five different funds, which comes out of the surplus funds. These increased departmental expenses were primarily for health insurance and pension contributions. Also recommended were intra-fund transfers for the Postal Center and the Building Department (from the GF to PZ&B fund \$100,000 that has been residing in the General Fund). Councilman Ochsner added that funds to compensate for expenditure differences were transferred from unallocated funds to allocated funds, with the net affect that the Town has still a surplus.

The Mayor thanked Councilman Ochsner for taking the responsibility as the Finance Committee Chairman. A **motion to approve the budget adjustments as recommended by the Finance Committee** was made by Councilmember Atchison, supported by Councilman Weick, **passing 5-0.**

c. Signature Authority for Town Manager / Town Treasurer

Councilman Ochsner was asked to address this request, which he said is a logical one. The current level is \$500, and anything over that amount requires two signatures, even if it's in the budget and is an ordinary expense. This was set in place 24 years ago, and today we can't pay the electric bill and issue all paychecks without two signatures. Check runs are approved by the Town Manager or a Council Member in his absence, which provides for the double-check process. For ordinary and usual business expenses, to raise it to \$5,000 makes more sense.

The Mayor asked the Treasurer if the auditor said something about this, how well we were under control with the signature process. Mayor Kenyon said it was in a previous year that he thought it might have been addressed. Councilmember Atchison said it was related to travel expenses, not this type of expense. Councilman Weick and Vice Mayor Ahrens both concurred. The Mayor asked Mrs. Lewis to ask the auditors and the Council would take it up at the next meeting.

7. Call to Council

a. Committee Reports

Parks and Recreation. Councilman Ochsner said this Committee did not meet.

Beach and Shores. Councilman Ochsner reported that most of the discussion was already covered under Item 3 (c) above. One other topic of interest is a workshop and hearing that has to do with the establishment of the Erosion Control Line (ECL), which relates to line of demarcation between public and private property. It will be held on December 14 at 7 p.m. at the Disney Resort. This is necessary so that as the beach changes with the addition of sand, the line remains the same and some public property is maintained. About 950 property owners have been notified about this, which affects property owners all the way to River Club at Carlton.

Indian River County will request a 15-year temporary construction easement to place sand on private property from property owners from Marbrisa north, and if permission is not received, that parcel of property will not have any sand placed above the ECL. The Vice Mayor added that if the sand is not contiguous, it will be worthless.

The Mayor asked Mr. Clem if there isn't a Federal law stating that the government owns the beach up to the high water mark, and Mr. Clem affirmed, adding that this is a complex issue. The public has a right to get on the beach, but where that right starts and stops is a gray area, with dozens of cases about the ECL and rights of public to the beach and other waterfronts. In this case, Councilman Ochsner added, the mean high water line and the ECL are the synonymous.

Councilman Ochsner continued that there is information regarding this that the Town Clerk can put on the website, as there have already been a couple of calls.

Treasure Coast Regional Planning Council. Vice Mayor Ahrens had nothing to report.

Metropolitan Planning Organization (MPO). MPO met and is working on the 2035 Long Range Plan. Since County revenues have been declining by \$40 million annually the past three years, there may be quite a few deferrals in the ranking projects. Also population estimates were revised in 2009 for the County from 300,000 in 2005 for 2030 to 209,000. Talks now are centered on right-of-way rather than construction as the new approach, with the possibility of no gated communities in the urban service area where there is room for growth, and electric cars and busses.

Sustainability. Nothing to report.

Treasure Coast Regional League of Cities (TCRLC). Councilmember Atchison said this was an interesting program, with Doug Bournique from St. Johns River Water Management District (SJRWMD) and a representative from South Florida Water Management District providing a presentation in Fellsmere. Mr. Bournique is not only the head of Growers Association but also is our representative for the SJRWMD Board. It was a fascinating program, with a discussion about one hydration area of about 100,000 acres in South Brevard losing billions of gallons of water each year to the tides. In the past 50 years, the I-95 construction resulted in canals going East-West, which directs the water to the oceans (tides). Reinstating the North-South canals by removing the earthen dams (plugs) will help. Water Farming is the new plan, with agricultural land being turned into water farms, with gates on berms to raise the water higher and store it.

Affordable Housing. Vice Mayor Ahrens said that there was a meeting yesterday which he did not attend, but has been following the program. The meetings are highly technical, and the program is working well.

Land Acquisition Advisory Committee (LAAC). Councilman Weick said that there was no meeting.

He then brought up a resolution that was being prepared by the County supporting Representative Debbie Mayfield's attempt to propose a bill for the Public Service Commission to regulate the utility of the City of Vero Beach. He asked if the Council would be willing to support the legislation? The Mayor replied that he sought Mr. Clem's advice about this, who told the Council that he found it offensive to take local problems to Tallahassee for statewide discussion. This seems to be part two of the Stan Mayfield attempt to tag onto a bill, as he did for the Public Service Commission (PSC) to establish a Vero Beach Commission to set local rates. Our Town has some options with franchise agreements running out. A territorial agreement with the PSC was discussed with the Town Attorney before ending the discussion.

Elected Officials Oversight Committee. No meeting.

Economic Development Council. Mayor Kenyon reported that a company called E-Mindful did the presentation, and said they will have a large number of grant-based employees after they receive about \$475,000 from the County. They have about \$50,000 to it's name, three principals (Cleveland, Phoenix and here), and only one will have the business. There is not a building involved, but all work is done online. The EDC recommended this program to the County Commission.

He also heard about Florida Institute of Technology at this meeting, and thought it was a great organization, very well funded with a great faculty. They are very involved in modern technology. Resident Jack Mitchell, 220 Sandpiper Point, said he has been informed that the school no longer wish to be referred to as FIT, but rather Florida Tech, competing with Cal Tech.

Treasure Coast Council of Local Governments (TCCLG). The Mayor stated that broadband as a beneficial service for a community to generate business was discussed.

8. **Call to Audience**

Another discussion between Mr. Mitchell and others with Councilman Ochsner regarding dredged sand ensued for several minutes.

Lt. Joe McManus, Indian River County Ocean Rescue, came to personally thank the Council for their very strong position on keeping the lifeguards. This advocacy kept the lifeguards in business. He added that because of this, there was a double rescue about 10 days ago whereby a father and son were pulled out of a rip current at the Tracking Station.

Councilmember Atchison mentioned that the Town of Orchid is having the guards for gated communities be trained to assist in taking the census. The Town Clerk informed the Council that there will be testing in the Community Center conducted by the Census Bureau the first weekend of December.

9. **Adjournment**

There being no further comment, the Mayor announced the meeting's adjournment at 4:51 p.m.

Respectfully submitted,

/s
Laura Aldrich, CMC, Town Clerk

(Approved by the Town Council at the 12-17-09 Meeting)